

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Amendments to Part 4 of the Commission's)	PS Docket No. 15-80
Rules Concerning Disruptions to)	
Communications)	
)	
Petition of California Public Utilities)	RM No. 11588
Commission and the People of the State of)	(terminated)
California for Rulemaking on States' Access to)	
the Network Outage Reporting System)	
("NORS") and a Ruling Granting California)	
Access to NORS)	

**COLORADO PUBLIC UTILITIES COMMISSION RESPONSE TO SECOND FURTHER
NOTICE OF PROPOSED RULEMAKING**

On February 28, 2020, the Federal Communications Commission (FCC) issued a Second Further Notice of Proposed Rulemaking regarding the provision of access to the FCC's Network Outage Reporting System (NORS) and Disaster Information Reporting System (DIRS) to state and federal agencies while also preserving the confidentiality of the data therein.

By receiving access to NORS and DIRS data, the Colorado Public Utilities Commission (CoPUC) believes that two primary benefits will be realized:

1. We will have access to data that may be aggregated and anonymized to provide longitudinal statistical analysis that may reveal trends in the frequency, size, and duration of outages that will shed light on the health of the public's ability to dial 911 in an emergency. Indeed, by sharing this anonymized data publicly, states will be able to compare data with neighboring states, which may allow us to establish a baseline which could help identify areas where particular problems need to be addressed. Additionally, (CoPUC) has an obligation to report annually to the Colorado General Assembly on the status and health of the State's 911 service.¹ The inclusion of aggregated, anonymized statistical data from NORS filings will allow this annual report to be more complete than it would be otherwise.

¹ See § 40-2-131, C.R.S.

2. In the event of an ongoing disaster or large-scale emergency, access to NORS and DIRS data will allow states to coordinate better emergency responses with local agencies, helping to ensure the safety of the public and potentially saving lives and property.

Throughout the rest of our comments, we respond to specific questions raised by the FCC in its Notice of Proposed Rulemaking.

NORS ACCESS FOR STATE AGENCIES

In paragraph 18, the FCC asks several questions related to what benefit might be derived from providing access to NORS to states. The first question asks, *“To what extent are state or federal agencies’ efforts to ensure the safety of the public frustrated by the fact that information about communications outages is either difficult to obtain or unavailable?”*

In Colorado, the only state agency with the necessary regulatory authority to require any sort of telecommunications outage reporting is CoPUC, and that authority is currently statutorily restricted to the portion of the call flow provided by the state’s 911 System Service Provider (SSP). Although this reporting provides critical information, it covers only a segment of the total 911 call flow. Outages that occur in an originating service provider network can stop a 911 call from being delivered to a PSAP, just as easily as an outage in the SSP’s network. In practice, this means that the only Colorado agency with oversight of 911 service on a statewide basis has a very limited view into whether the full 911 system, from the caller to the public safety telecommunicator, is functioning at any given time.

The second question asks, *“Have there been recent public safety incidents where state or federal agencies could have led a more successful response had they been granted direct access to NORS filings at the time of the incident? How would direct access to NORS filings have assisted in the response for such public safety incidents?”*

One example where information about individual originating service provider outages would have been helpful is readily available. On July 15 of 2019, a fiber cut occurred within the network of Colorado’s SSP, causing 911 outages or partial outages in multiple locations throughout the state. Due to a network configuration, thirty-one PSAPs across the state were notified that they were potentially affected by the outage, even if they weren’t affected. The State’s Emergency Operations Center activated to help coordinate communication, and the confusion regarding which locations were actually affected and which were false alarms hampered the ability of the State and the local communities to develop a coherent communications strategy. The outage persisted for almost 12 hours, and it was not until days after the outage was resolved that any level of certainty was achieved in determining which PSAPs and areas were actually affected. The outage occurred within the underlying SSP’s network, which also serves as the backhaul for a number of providers, including wireless and rural local exchange carriers. It would have been helpful to know which of those originating

service providers had and had not been affected. The ability to narrow down the actual affected locations could have helped inform the communications strategy of the local agencies and the State's Emergency Operations Center.

Two other examples of disasters where a lack of specific information about where communications networks were functional had an impact on response were the flooding that impacted Larimer County, Colorado in 2013² and the Waldo Canyon Fire in June of 2012³.

The third question in paragraph 18 asks, "*Are there additional benefits associated with granting direct access to NORS that we should consider?*"

CoPUC is required by state statute to provide an annual State of 911 Report to the Colorado General Assembly by September 15 each year.⁴ In addition to several other topic areas, CoPUC is required to report on "911 network reliability and resiliency". While we can report with some degree of detail on that topic as it relates to the 911 System Service Provider's network, we are not able to provide information regarding 911 call flow from the callers to the SSP network. Access to NORS reports would provide us with information that could be used to more fully inform our legislators regarding the health of end-to-end 911 service in the state, while still keeping such information aggregated to maintain confidentiality regarding specific providers and their networks.

DIRS ACCESS FOR STATE AGENCIES

In paragraphs 19 through 21, the FCC outlines a number of potential benefits that may be derived from providing state agencies access to the Disaster Information Reporting System (DIRS), while paragraph 22 seeks "*comment on our (the FCC's) analysis and these anticipated benefits.*" CoPUC agrees with the analysis provided in paragraphs 19-21, and notes that, as stated in paragraph 21, the FCC waives mandatory NORS reporting while DIRS is activated for a disaster. The result is that during a disaster, a time when state agencies might greatly benefit from information regarding 911 outages, that information will only be available through DIRS.

While Colorado is not susceptible to hurricanes and large earthquakes, the State must frequently contend with blizzards, avalanches, wildfires, and flooding. In those situations, emergency managers at both the state and local level need to know which telecommunications providers serving the affected area are operational and which are not. Because of this, access to DIRS is essential to ensuring public safety. A more clear understanding of broader network issues could have led to increased efforts using alternate methods to deliver the evacuation notifications.

² See CoPUC proceeding [13I-1147T](#).

³ City of Colorado Springs, "Waldo Canyon Fire Final After Action Report". 3 Apr 2013. https://cdpsdocs.state.co.us/coe/Website/Data_Repository/Waldo%20Canyon%20Fire%20Final%20After%20Action%20Report_City%20of%20Colorado%20Springs.pdf

⁴ § 40-2-131, C.R.S.

Additionally, during a disaster, it is necessary for state agencies to identify the operational status of *specific* providers. CoPUC suggests that the rules should reflect this and not prevent state agencies from appropriately identifying the operational status of specific providers reported through DIRS.

ELIGIBLE STATE AGENCIES

Paragraph 23 proposes that the agencies provided access to NORS and DIRS data be restricted to those with a “need to know”, that being those which “*reasonably require access to the information in order to prepare for, or respond to, an event that threatens public safety, pursuant to its official duties.*” CoPUC believes this definition of “need to know” is too narrow. Paragraphs 44 through 46 of the NPRM propose to allow agencies to disseminate aggregated, anonymized data derived from NORS and DIRS filings. The set of agencies tasked with this duty may not be the same set responsible for immediate response to disaster situations, and agencies tasked with publishing said anonymized data should also meet the definition of “need to know.”

Paragraph 24 describes the FCC’s vision regarding the ability of local agencies to be able to access NORS and DIRS data indirectly through an authorized state agency, and seeks comment on this proposal. CoPUC agrees with this approach.

Paragraph 25 asks several additional requests regarding the proposal in paragraph 24. First, the FCC asks, “*Are there reasons why local entities require direct access to NORS and DIRS filings...*?” CoPUC asserts that indirect access through an authorized state agency should be sufficient, and in fact it would be preferable for a state agency with experience navigating NORS and DIRS and with an understanding of the data provided therein to relate that information to local agencies with a need to know rather than expect a local agency in the midst of an outage or a disaster to perform the same task.

Paragraph 25 also asks, “*Are there other entities, besides the state and federal agencies that we have identified above, that also should be eligible to participate in the proposed information sharing framework?*” CoPUC does not believe there are other entities, other than the state, federal, and tribal entities previously identified, that need access to the information.

Paragraph 26 goes on to ask, “*Should we introduce additional criteria for state-level agencies, such as limiting access to certain types of state agencies (e.g., state public safety and emergency management departments)?*” CoPUC strongly discourages the FCC from taking this approach. The responsibility for oversight of the 911 system varies from state to state, and there are several states, like Colorado, Nebraska, and Maine, that house their 911 program within their public utilities commission. States should not be penalized for choosing an administrative framework that works best for their state.

In the same paragraph the FCC asks, “*Should we exclude from eligibility agencies located in states that have diverted or transferred 911/Enhanced 911 (E911) fees for purposes other than 911/E911?*” While Colorado has not diverted 911 funds to other purposes, CoPUC again strongly discourages the FCC from taking this approach. One of the strongest arguments in favor of providing access to NORS and DIRS data is that it may provide crucial information to help coordinate state and local emergency management efforts and therefore *save lives*. While we agree that 911 funds must not be diverted, the desire to penalize states for diverting 911 funds must not take priority over immediate public safety concerns.

Paragraph 27 seeks comment on the degree to which tribal entities should also be granted access to NORS and DIRS. To the extent that there are tribal entities in the United States that do not participate directly with a state 911 program or have their own 911 program, they should be granted access to NORS and DIRS in the same manner as a state.

CONFIDENTIALITY PROTECTIONS

Paragraphs 28-30 state that NORS and DIRS are currently treated as presumptively confidential, and propose to extend that treatment of NORS and DIRS data even as access to such data is being provided to the states. Without answering each question separately, CoPUC offers the following perspective on the confidentiality of NORS and DIRS data.

First, CoPUC believes that the desire for confidentiality has more to do with protection of information that is *competitively sensitive* rather than sensitive from a security perspective. While certainly some NORS or DIRS data may be security sensitive, CoPUC does not believe that the majority of the data provides the level of detail necessary to pose a security risk if it is released. Therefore, the greater risk is that the information may be used for marketing purposes. Keeping information confidential, then, becomes a necessity to ensure that providers do not avoid reporting for fear of exposing information that may be damaging to their brand or expose trade secrets. While that is a legitimate concern, CoPUC believes it is important to acknowledge that the desire for confidentiality is not entirely due to concerns over network security.

Second, CoPUC believes that state legislators, other officials, and the public should be informed regarding the reliability of the most important tool they have in an emergency: the ability to call 911. Informing the public on this topic requires either the FCC or state agencies to release statistical data derived from NORS. This data may be aggregated and anonymized to protect individual companies, but CoPUC believes the public has a need to know general trends such as the number of outages that have occurred within a state, the average size of the outages, and the average outage duration. Currently, many states have no way of knowing if outages affecting access to 911 are happening more or less frequently.

Third, CoPUC notes that during a disaster, statistical data about the frequency, scope, and duration of outages in the aggregate is not particularly useful. Local first responders and state

emergency management coordinators need to know specifically which providers are operational and which aren't, as well as where service may have been lost. Knowing these facts can make the difference between a successful or unsuccessful evacuation of vulnerable populations. Therefore CoPUC urges the FCC to ensure that during disasters, confidentiality requirements do not prevent state agencies from sharing with local agencies information about specific outages, including information about the area of effect of the outages and the specific providers that are affected.

PROPOSED SAFEGUARDS FOR DIRECT ACCESS TO NORS AND DIRS FILINGS

In paragraph 34, the FCC proposes that eligible state agencies be granted read-only access so that employees of those agencies cannot alter the records, either intentionally or accidentally. CoPUC agrees.

In paragraph 35, the FCC proposes to limit access to the files starting from the date of the new data-sharing framework, keeping older filings inaccessible. Paragraph 36 goes on to ask, *"Are there reasons why we should not provide an agency access to filings after the effective date and prior to their participation in the proposed framework?"* The answer to this question is "no."

Paragraph 36 further asks, *"Are there reasons that we should provide access to all historical filings that can be made available or, instead, that are made as of the date of today's proposal?"* CoPUC notes that this practice may delay the development of statistical models that may identify industry-wide trends regarding outages as they affect a particular state, and that it would be better to provide state agencies with access to at least two years' worth of previous filings to allow for statistical baselines to be developed.

Finally, paragraph 36 asks, *"should participating agencies' access to NORS and DIRS information be limited to timeframes relevant to specific disasters or other events that threaten public safety for which those agencies are contemporaneously preparing or responding?"* CoPUC strongly discourages the FCC from taking this approach. One of the greatest benefits to be derived from providing NORS access to state agencies is that it will allow those agencies to gauge the health of the public's access to 911 over time. This can only be accomplished if those agencies have access to longitudinal data for comparative analysis. Restricting access to *only* those time periods related to specific disasters and other large-scale events would make such analysis impossible.

Paragraph 35 states that this would be done to *"address potential concerns that service providers may have about a potential dissemination of filings that they originally made to the Commission under an expectation that we would keep the filings presumptively confidential and withhold them from disclosure, even from federal and state government agencies that might seek them."* It should be noted that the filing requirements for carriers aren't changing. If it serves the public interest to release the filings going forward, particularly for purposes of

producing aggregated, anonymized data for analysis purposes, then the same public interest consideration would apply equally to older filings.

SHARING OF CONFIDENTIAL NORS AND DIRS INFORMATION

In paragraph 38, the FCC proposes to allow the sharing of NORS and DIRS information “downstream” to a recipient, and that such a recipient may further summarize or share the information with others who have a “need to know,” where “need to know” is defined as a situation in which a recipient “would need to reasonably require access to the information to prepare for, or respond to, an event that threatens public safety, pursuant to the recipient’s official duties.” The FCC further proposes that the state agency, being the primary recipient of the information require confidentiality certifications (presumably something like a non-disclosure agreement) prior to being provided the information and that they further agree to destroy the information following the conclusion of the incident causing them to require the data. CoPUC questions whether such an extreme degree of confidentiality is necessary, but believes that it can function within the bounds of such requirements. CoPUC urges the FCC to ensure that during disasters and large-scale emergency situations, confidentiality requirements do not hinder the timely sharing of data with any downstream recipient that has a need to know.

In paragraph 39, the FCC seeks “*comment on [whether] state laws and penalties would be sufficient to deter any inappropriate disclosure of NORS/DIRS information.*” In Colorado, inappropriate disclosure of public records is prohibited, including instances in which “such inspection would be contrary to any federal statute or regulation issued thereunder having the force and effect of law.”⁵ As a penalty for failure to keep such records confidential, CoPUC suggests that the threat of loss of access to NORS and DIRS data should be sufficient. CoPUC further suggests that the loss of data should be permanent for the individual that inappropriately released or caused the exposure of the confidential data. Rules should also include that the downstream agency that employed the individual that inappropriately disclosed data would lose access to NORS and DIRS for a period of time, subject to a request from the agency to reinstate access for good cause or after mitigation measures have been taken.

Paragraph 39 continues by asking what consequences should exist if someone “downstream” from the agency inappropriately exposes NORS and DIRS data to the public, “apart from... immediate cut-off of access for the agency that accessed the NORS and DIRS filings.” If the FCC chooses to keep the information strictly confidential even during such times as an active disaster, and a “downstream” agency exposes confidential information, either intentionally or unintentionally, it would be an extreme disservice to the citizens of that state to cut off access for the entire agency that was the primary recipient of the information. Rather, the state agency that is the original recipient of the information should be required to cut off the downstream individual or agency that inappropriately exposed confidential information. Further, the CoPUC asserts that the cutting-off of access for the downstream recipient should not necessarily be

⁵ § 24-72-204 (1) (b), C.R.S.

permanent. Rules should allow the agency that was the primary recipient to reinstate access to the downstream recipient after mitigation measures have been taken and/or good cause has been shown.

Paragraph 39 also seeks comment “on the public safety purposes for which downstream recipients may use NORS and DIRS information, as well as on our proposal to condition access to this information on its use for public safety purposes only.” In Colorado, emergency notification system broadcasts may be initiated at either the state or local level. In the event of a disaster or large-scale event that requires an emergency notification system message to be broadcast, it is crucial that emergency management officials at both the state and local level know where there are outages, regardless of whether those outages are related to the disaster or are coincidental. For example, if informed of an outage which may prevent ENS message deliveries, an agency could alter its messaging methods and response.

In paragraph 40, the FCC proposes that the sharing agency (meaning the state agency that is the original recipient of the data) determine whether a “need to know” exists on the part of the other recipient rather than have the FCC determine this on a case-by-case basis. CoPUC agrees. Not only will such a determination be made more accurately by state officials who have likely already been briefed regarding a growing situation, they will be able to make that determination more quickly.

Paragraph 41 provides several examples of what the FCC considers to be a valid “need to know,” which would allow for the sharing of confidential NORS or DIRS data. CoPUC agrees that the examples provided are appropriate.

In paragraph 42, the FCC asks what additional steps could be taken to mitigate the risks of exposure of confidential information, and offers as an example, “*should we require, as a condition for access to the data, that participating agencies notify the Commission when they share NORS and DIRS information with a downstream recipient, and if so, what form should the notification take?*” If the FCC were to require notification from state agencies when they share confidential information with a subrecipient, CoPUC recommends that the FCC create an online form for state agencies to register such notifications with the FCC, and that the form could require the specific pieces of information listed in paragraph 42, including “which individuals, localities, and Tribal lands are receiving this information downstream and describe the basis for any ‘need to know’ determinations.” CoPUC would also be able to provide such notifications within a required time period, as suggested by the FCC. CoPUC also suggests that the sharing agency be able to list multiple recipients within one notification rather than have to file a separate notification for each recipient.

In paragraph 43, the FCC asks generally whether the restrictions proposed by the Commission to protect confidentiality should be more strict or less strict, and asks for detailed descriptions of how counter-proposals may function. As CoPUC has explained above, we believe that the proposed restrictions are sufficient. Following the conclusion of the disaster or emergency,

recipients and subrecipients may be required by the FCC rules to destroy confidential data or copies of such data in their possession. However, generalizations or descriptions of the content of the data will likely need to be included in official reports regarding the incident, including after-action reports. This is unavoidable and should be recognized and allowed by the FCC's rules. Alternatively, CoPUC proposes that FCC rules allow agencies to keep the data related to the incident for their agency records under the condition that it remain confidential, while also recognizing that general descriptions of the content of the data may still appear in publicly available reports about the incident.

DISCLOSING AGGREGATED NORS AND DIRS INFORMATION

In paragraph 45, the FCC proposes to define "aggregated NORS and DIRS information" to refer to information aggregated and anonymized from "at least four service providers". This should be sufficient when providing information on a statewide basis for the purpose of demonstrating trends in outage rates, size, or duration. However, if the purpose of providing the information is "to keep the public informed of on-going emergency and network outage situations, timelines for recovery, and geographic areas to avoid while disaster and emergency events are ongoing," as suggested in paragraph 44, aggregating the data at high enough of a level to include at least four providers will make the data meaningless. Many rural areas of Colorado only have coverage from one or two wireless providers, a situation that is not unique among the western states.

If Wireless Carrier A is experiencing an outage in Hinsdale County, Colorado, for instance, we need to be able to tell the public that Wireless Carrier A is down. It is nonsensical to give the public a list of four wireless carriers, including Wireless Carrier A and three carriers that don't provide service in Hinsdale County, and tell them that they may experience some outages involving those carriers.

In paragraph 46, the FCC proposes allowing participating state agencies to aggregate and disseminate NORS and DIRS information, with the requirement that the data made public is aggregated and anonymized. CoPUC agrees with this proposal.

DIRECT ACCESS TO NORS AND DIRS FILINGS BASED ON JURISDICTION

In paragraph 47, the FCC proposes that "a participating agency receive direct access to all NORS notifications, initial reports, and final reports and all DIRS filings for events reported to occur at least partially in their jurisdiction." CoPUC agrees with this proposal. We note that while it would be useful for some Colorado agencies to have access to NORS or DIRS data related to incidents occurring in neighboring states, the FCC's proposal allows for data to be shared by one participating agency to another that has a "need to know," which would apply to situations where NORS or DIRS data may be critical in response to incidents that occur near the border of two states or between a state and a tribal entity.

In paragraph 49, the FCC asks if “participating federally recognized Tribal Nation’s government agency that receives direct access to NORS and DIRS filings have a ‘need to know’ about events that occur entirely outside of its borders but within the border of one the state where the Tribal land is located?” The answer to this question can be “yes” depending on the scope of the event, the proximity of the event to the tribal nation, and the likelihood that the incident may affect the tribal nation. An outage affecting cell phone coverage on the main highway into a tribal jurisdiction is something the tribal entity needs to know about, particularly if it is related to a wildfire or other natural disaster or emergency that the entity needs to warn its residents away from. It also needs to be aware of the event if there is a chance that its resources may be called upon via mutual aid agreements. This is the same logic that would apply in determining whether a neighboring state has a need to know of an event occurring outside its borders.

In paragraph 50, the FCC seeks comment on the technical implementation of its proposals. Regarding the provision of access to NORS and DIRS data, it would be simplest to allow direct access to data that relates to incidents within a state agency’s state boundaries, and to a tribal entity’s tribal jurisdiction. The concept of “need to know” applies when a state agency is sharing data with either an agency of a political subdivision of the state or with a neighboring state. This approach removes the necessity of the FCC building a system that can account for “near hits,” and gives the states and tribal entities the ability to share data when it is appropriate.

In paragraph 52, the FCC proposes to change the Commission’s NORS form to allow users (being the providers that are entering data) to select more than one state rather than choosing between a single state and “multistate,” so that data may be filtered down to the state level even if an event is multi-state in nature. CoPUC agrees that this would likely be the best solution, but finds it difficult to believe the cost estimate associated with this implementing this change would amount to \$3.2 million, as the FCC asserts. We look forward to reviewing the responses from telecommunications providers responding to this estimate and hope that they provide data that helps establish a realistic estimate of the actual cost of this very minor change to the Commission’s reporting form. If the Commission does implement this change, CoPUC urges the FCC to include tribal entities in the list of jurisdictions from which a provider may choose. If tribal entities are allowed to receive direct access to the data in the same way that state agencies are allowed access, this level of granularity will be needed to ensure that tribal entities will be notified of incidents occurring within their jurisdiction.

In paragraph 53, the FCC asks if, instead of changing the reporting form to allow selecting multiple states, “we should require service providers to submit several state-specific filings instead of submitting single aggregated filings for each outage that list all affected states.” This certainly seems less efficient and more time consuming for the providers than making the proposed change to the Commission’s reporting form, but since the end result to the participating state agencies is the same, we will leave it to the providers to express their preference on this matter.

LIMITING THE NUMBER OF USER ACCOUNTS PER PARTICIPATING AGENCY

In paragraph 54, the FCC proposes to “to presumptively limit the number of user accounts granted to a participating agency to five NORS and DIRS accounts per state or federal agency with additional accounts permitted on an agency’s reasonable showing of need” and to “require that an agency assign each user account to a unique employee and manage the process of reassigning user accounts as its roster of employees changes (e.g., due to arrivals and departures or a change in roles at the participating agency).” CoPUC has no objection to these requirements.

In paragraph 55, it is noted that AT&T suggested that the number of employees with access be limited to three. The FCC responds that they agree with having a presumptive limit, but believes that five is more reasonable. CoPUC agrees, and also clarifies that we believe this should be five employees *per agency*, not per state.

In paragraph 56, the FCC proposes to establish a process by which agencies may request additional accounts with justification. CoPUC agrees with this approach. The FCC also asks, “Should there be a different presumptive limit of employees for agencies that serve a coverage area or population above a certain size?” We suggest that simplicity would better serve this process than by complicating it, and that agencies which need more than five accounts can request them through the process already described.

In paragraph 57, the FCC proposes to review requests for access directly from each participating agency, and not to restrict the number of potentially participating agencies. CoPUC agrees with this approach.

TRAINING REQUIREMENTS

In paragraphs 58 and 59, the FCC proposes that individual users who receive direct access be required to undergo training prior to being granted access, and then receive refresher training on an annual basis. CoPUC has no objections to this proposal.

In paragraph 60, the FCC suggests that each agency design its own training program, provided that the program covers five specific topic areas. CoPUC does not object to this approach, but suggests that the FCC provide a basic training manual that agencies may use as a starting point to ensure that each of the five topic areas are properly covered in their individualized training program. Indeed, the FCC suggests that it may provide an exemplar training program in paragraphs 61 and 62.

On the topic of training requirements, CoPUC also requests that the FCC and external partners that may be assisting in the development of the exemplar training program balance the needs for ensuring that the training program is complete and thorough with the obstacle that an overly-robust training requirement may present to some agencies which have limited personnel. A training program that takes forty hours to complete, for instance, may prevent some agencies

from participating, particularly when an eight-hour training program may have been sufficient to cover the required topics.

In paragraph 63, the FCC asks whether it should “take steps to ensure that state and federal agencies’ training programs comply with our proposed required program elements” and whether it should “require a third-party audit of a partner-developed training program.” CoPUC believes this is unnecessary. If the FCC requires reassurance that participating agencies are meeting training requirements, those agencies could be required to provide a copy of their training curriculum to the FCC and attest that employees within the agency are required to complete the training prior to applying for an account. The same requirement could exist for the annual refresher training requirement.

In the same paragraph, the FCC asks whether “downstream recipients,” those receiving data shared to them from a participating state agency, should also be required to undergo formal training. CoPUC believes that imposing a training requirement at the local level would be prohibitively burdensome. There are potentially hundreds of individual agencies throughout the state that may have a “need to know” during a disaster or large-scale emergency, and requiring each of those agencies to have individuals undertake a multi-hour training prior to receiving the information is unreasonable. It would also be unduly burdensome for the participating state agency to keep track of who has had training, who hasn’t, and whether annual refresher training has been maintained. As an alternative, CoPUC suggests that the participating agency be allowed to develop an affidavit to be signed by subrecipients prior to the receipt of confidential information, acknowledging that they understand that un-anonymized data is confidential and that it is not to be shared.

PROCEDURES FOR REQUESTING DIRECT ACCESS TO NORS AND DIRS

Paragraph 65 outlines a procedure for potential participating agencies to apply for direct access to NORS and DIRS data. CoPUC has no objections to the procedure outlined here.

Paragraphs 66 and 67 describe some of the requirements found in the draft certification form that is included in the Notice of Proposed Rulemaking as Appendix C, and requests comment on those requirements. CoPUC has reviewed the draft certification form, and believes that it is more than sufficient to safeguard the confidential data that the FCC wishes to protect. CoPUC has no objections to the certification form.

COMPLIANCE DATES

In paragraphs 68 and 69, the FCC describes the steps that will have to be taken by the potential participating agencies, the telecom providers, and the FCC itself prior to the new data sharing policy can take effect. Without contemplating what that effective date might be, the FCC proposes to establish an effective date that would provide sufficient time to complete these steps.

While CoPUC agrees that these steps must be completed prior to implementation, we urge the FCC to choose a date that does not unnecessarily delay the implementation of the data-sharing process. Having access to this data could potentially help CoPUC and other state agencies save lives, and the implementation of this process should be treated with the urgency that this fact engenders.

CONCLUSION

CoPUC appreciates having the opportunity to weigh in on these difficult issues, and hopes that the FCC's deliberation on this topic will result in a framework wherein data received by the FCC regarding telecommunications outages may be used by relevant state and tribal entities to safeguard and enhance public safety. As explained in the outset of our comments, we believe that the data obtained through the data-sharing process proposed by the FCC would have the following primary uses at the state level:

1. The development of aggregated and anonymized statistical analysis of outage data that may reveal trends in the frequency, size, and duration of outages affecting the public's ability to call 911 in an emergency. Such statistical data may help drive better public policy, with the ultimate goal of ensuring that the public has access to the most robust emergency lifeline that can be provided.
2. The use of outage data by state agencies and the sharing of outage data with local agencies when such data may be of immediate use in improving emergency management response to disasters and large-scale emergency, thereby potentially saving lives and property.

We understand the concerns of the telecommunications providers to safeguard competitively sensitive information. Wherever possible, measures should be taken to address those concerns and help ensure that such information remains confidential. However, we believe that immediate public safety concerns must take priority over concerns regarding the release of information that may prove useful to one telecommunications provider over another or be damaging to a telecommunications provider's brand.

To the extent that such data may also contain information that may be sensitive to national security, the FCC should be aware that states already safeguard such information on a regular basis. It should not be assumed that state or even local governments cannot be trusted with sensitive information when they already maintain similar information as a daily activity. Rather, the FCC should consider the states to be partners in ensuring not only the safeguarding of sensitive data, but of ensuring the public's safety and providing life-saving emergency services.

Respectfully submitted,

The Colorado Public Utilities Commission
1560 Broadway Ste 250
Denver, CO 80202

/s/ Jeffrey P. Ackerman
Chairman

/s/ John C. Gavan
Commissioner

/s/ Megan M. Gilman
Commissioner